

# STATE OF MONTANA TERM CONTRACT

Department of Administration  
State Procurement Bureau  
165 Mitchell Building  
PO Box 59620-0135  
Helena, MT 59620-0135  
Phone: (406) 444-2575 Fax: (406) 444-2529

## T.C. # SPB02-29G BULK PROPANE

**This is an exclusive contract for the locations listed.**

	FROM	November 1, 2007	CONTRACT YEAR	NEW ( )
	TO	October 31, 2008		RENEW (XX)
VENDOR ADDRESS	VARIOUS VENDORS (SEE ATTACHED)		ORDER ADDRESS	
ATTN:			ATTN:	
PHONE:			PHONE:	

Prices: PER ATTACHED  
Delivery: AS NEEDED  
F.O.B.: DESTINATION  
Terms: NET 30 DAYS

Remarks:

For information regarding this term contract, please contact:

Devin Garrity, Program Manager  
State Procurement Bureau  
PO Box 200135  
Helena MT 59620-0135  
Phone: (406) 444-3366  
e-mail: [dgarrity@mt.gov](mailto:dgarrity@mt.gov)

Revised: 10/30/06

Notes:

IFB/RFP No.:  
SPB02-29G

Devin Garrity, Program Manager

**AUTHORIZED SIGNATURE**

# STATE OF MONTANA - TERM CONTRACT

## Standard Terms and Conditions

**By submitting a bid, proposal, or limited solicitation, or acceptance of a contract, the vendor agrees to the following binding provisions:**

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**ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES:** The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

**ACCESS AND RETENTION OF RECORDS:** The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

**ASSIGNMENT, TRANSFER AND SUBCONTRACTING:** The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Mont. Code Ann. § 18-4-141.)

**AUTHORITY:** The following bid, request for proposal, limited solicitation, or contract is issued in accordance with Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

**CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS:** Any business entity, domestic or foreign, intending to transact business in Montana must apply for authority to do so with the Montana Secretary of State. Foreign business entities are obligated to determine whether they are transacting business in Montana, in accordance with sections 35-1-1026 and 35-8-1001, MCA, and if so, must apply for and receive a certificate of authority and continue to be in good standing with the Secretary of State for the duration of the contract. Violation of these requirements may void the contract. Proof of authority is required. Questions or registration may be accomplished by contacting the Secretary of State at (406) 444-3665 or by e-mail at <http://sos.state.mt.us/css/index.asp>.

**COMPLIANCE WITH LAWS:** The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

**CONFORMANCE WITH CONTRACT:** No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

**DEBARMENT:** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

**DISABILITY ACCOMMODATIONS:** The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids, alternative document formats, or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

**FACSIMILE RESPONSES:** Facsimile responses will be accepted for invitations for bids or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

**FAILURE TO HONOR BID/PROPOSAL:** If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

**HOLD HARMLESS/INDEMNIFICATION:** The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

**INTELLECTUAL PROPERTY:** All patents and other legal rights in or to inventions arising out of activities funded in whole or in part by the contract must be available to the State for royalty-free and nonexclusive licensing. The contractor shall notify the State in writing of any invention conceived or reduced to practice in the course of performance of the contract. The State shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under the contract.

**LATE BIDS AND PROPOSALS:** Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

**PAYMENT TERM:** All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted, the State is allowed 30 days to pay such invoices.

**RECIPROCAL PREFERENCE:** The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see [www.discoveringmontana.com/doa/ppd](http://www.discoveringmontana.com/doa/ppd) under Reciprocal Preference.

**REFERENCE TO CONTRACT:** The contract (Purchase Order) number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

**SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

**SHIPPING:** Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

**SOLICITATION DOCUMENT EXAMINATION:** Vendors shall promptly notify the State of any ambiguity, inconsistency, or error, which they may discover upon examination of a solicitation document.

**TAX EXEMPTION:** The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

**TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED:** Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

**TERMINATION OF CONTRACT:** Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

**UNAVAILABILITY OF FUNDING:** The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

**U.S. FUNDS:** All prices and payments must be in U.S. dollars.

**VENUE:** This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

**WARRANTIES:** The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

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Revised 12/01

**A. SCOPE OF CONTRACT**

This document establishes a contract for supplying bulk deliveries of propane to the various State of Montana locations stated herein for the period from November 1, 2007 through October 31, 2008.

**B. CONTRACT RENEWAL**

This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be extended in one (1) year intervals for a period not to exceed four (4) additional years.

**C. TANKS**

Propane tanks at each location are designated as "State" owned or "Vendor" (to be supplied by the contract holder). Previous contract holders will be removing their tanks for replacement by the new contract holders, as required.

THE COST OF TANK CHANGEOVERS RESULTING FROM CONTRACT AWARD SHALL BE SOLELY THE RESPONSIBILITY OF THE SUCCESSFUL VENDOR. TANK RENTAL FEES, IF ANY, ARE TO BE INCLUDED IN THE BID PRICE PER GALLON.

**D. WORKERS' COMPENSATION/INDEPENDENT CONTRACTORS EXEMPTION**

The contractor is required to supply the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, with proof of Workers' Compensation Insurance or Independent Contractors Exemption covering the contractor while performing work for the State of Montana. (Mont. Code Ann. §§ 39-71-120, 39-71-401, and 39-71-405.) Neither the contractor nor its employees are employees of the State. The proof of insurance/exemption must be valid for the entire contract period and must be received by the State Procurement Bureau within 10 working days of the Request for Documents Notice.

CONTRACTS WILL NOT BE ISSUED TO VENDORS WHO FAIL TO PROVIDE THE REQUIRED DOCUMENTATION WITHIN THE ALLOTTED TIME FRAME.

Coverage may be provided through a private carrier or through the State Compensation Insurance Fund (406) 444-6500. An exemption can be requested through the Department of Labor and Industry, Employment Relations Division (406) 444-1446.

**E. INSURANCE REQUIREMENTS**

**General Requirements:** The contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability which may arise from or in connection with the performance of the work by the contractor, agents, employees, assigns, or subcontractors. The insurance shall cover such claims as may be caused by any negligent act or omission.

**Primary Insurance:** The contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location.

Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

**Specific Requirements for Commercial General Liability:** The contractor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

**Additional Insured Status:** The State, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the contractor, including the insured's general supervision of the contractor; products and completed operations; premises owned, leased, occupied, or used.

**Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) The insured shall reduce or eliminate such deductibles or self-insured retention's as respect to the State, its officers, officials, employees, and volunteers; or (2) The contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**Certificate of Insurance/Endorsements:** Insurance must be placed with an insurer with a Best's rating of no less than A-. The certificate must also include the State's purchase order number or contract number. This insurance must be maintained for the duration of the contract. The State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, must receive all required certificates and endorsements within 10 days from the date of the Request for Documents notice before a contract or purchase order will be issued. Work may not commence until a contract or purchase order is in place. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc.

**F. DELIVERIES**

Deliveries are to be made within a reasonable time frame as designated by the individual ordering agency. Failure to comply with agency requirements may result in contract termination.

**G. SAFETY**

All contract holders must comply with the safety guidelines for propane storage, use and handling under OSHA SECTION 1910.110.

**H. CONTRACT VOLUME DISCLAIMER/INTENT**

The gallon figures listed for each location are based on annual estimates, strictly for award purposes, and in no way constitute an obligation on behalf of the State. Actual amounts purchased may vary depending upon needs.

The intent of this contract is to provide state agencies with a means of procuring Bulk Propane.

However, the State does not guarantee quantities or usage. It is the individual agencies' responsibility to comply with the terms of the contract.

**I. VENDOR QUOTATION AND AWARD PROCESS**

This contract was awarded by numbered location to the vendor with the lowest bid price(s) per gallon for each location. A maximum number of three (3) places to the right of the decimal point on a dollars per gallon basis is allowed. All contract pricing is F.O.B. destination.

**Preferences for residency, in-state manufacture and reciprocity were NOT considered for award per section 2.5.408, Administrative Rules of Montana.**

**J. PRICE CHANGES**

Contract propane prices shall be adjusted monthly based on the average rack price of the Cenex/Country Energy refinery, Laurel, Montana and Conoco and Exxon refineries, Billings, Montana postings from approximately the first working day of the month. Contract pricing adjustments will be made effective on the 15th day of each month beginning January 15, 2002 to reflect the cents-per-gallon change in the "average" Montana refinery prices noted above.

The contract pricing will be adjusted monthly, initially by comparing the posted price of November 20, 2001, calculated to be \$0.362/gallon, versus the posted price of the first working day of January 2002, and so on. This price change will be added to or subtracted from the previous month's contract price for all delivery locations. The State Procurement Bureau will issue pricing addenda to contract holders and agencies to take effect by the 15th of each month.

No price increase may be applied to a late delivery, if the increase resulted from a delivery not made within the time frame established by this contract.

In the event this pricing structure becomes unworkable or detrimental to the State, or does not accurately depict market conditions, the State reserves the right, at its discretion, to make modifications to the pricing structure to reflect market conditions or to cancel the contract by giving 45 days written notice to contract holders. The State may not be held liable for any costs of lost profits resulting from contract cancellations.

**K. INVOICES**

Itemized invoices must be furnished to agencies on all deliveries, referencing the Term Contract Number (SPB02-29G), state location, date of delivery, and quantity of product delivered.

In all cases, billing and invoicing of propane purchases shall be directed to the department or agency with authority over the specific delivery location. A copy of the delivery ticket will be left at the delivery location. Contract holders will secure the proper billing and invoicing address for each awarded location.

**L. VENDOR DIRECTORY****ALDERMAN OIL**

Alderman Oil Company  
Gary Alderman  
PO Box 120  
Broadus MT 59317  
Phone: (406) 436-2980  
Fax: (406) 436-2456  
Fed. I.D. No.: 81-0446493

**AMERIGAS**

Amerigas Propane L.P.  
Martin Mingay, Regional Manager  
207 ½ Broadway  
Townsend, MT 59644  
Phone: (406) 266-4835  
Fax: (406) 266-4837  
Fed. I.D. No.: 23-2787917

**AXMEN PROPANE**

Axmen Propane, Inc.  
Tim Johnson  
PO Box 989  
Frenchtown MT 59834  
Phone: (888) 543-7515  
Fax: (406) 626-2598  
Fed. I.D. No.: 81-0530437

**BREEN OIL**

Breen Oil Company  
Jerry Breen  
PO Box 10  
Choteau MT 59422  
Phone: (406) 466-2575  
Fax: (406) 466-5874  
Fed. I.D. No.: 81-0429780

**CHS/MILES CITY**

CHS  
David Corbin  
PO Box 1440  
Miles City MT 59301  
Phone: (406) 234-1350  
Fax: (406) 234-3800  
Fed. I.D. No.: 41-0251095

**CENTRAL MT PROPANE**

Central Montana Propane, LLC  
Dean Stapleton  
PO Box 558  
Lewistown MT 59457  
Phone: (406) 538-3953  
Fax: (406) 538-9777  
Fed. I.D. No.: 81-0513866

**CROSS PETROLEUM**

Cross Petroleum Service  
James F. Steffen  
PO Box 1388  
Glendive MT 59330  
Phone: (406) 377-8325  
Fax: (406) 377-6315  
Fed. I.D. No.: 81-0347944

**EZZIE'S**

Ezzie's Wholesale, Inc.  
Lary Poulton  
PO Box 1770  
Malta MT 59538  
Phone: (406) 654-2331  
Fax: (406) 654-2887  
Fed. I.D. No.: 81-0380421

**FUO-PLENTYWOOD**

Farmers Union Oil Co.  
L. James Kibbe  
301 – W. 1<sup>st</sup> Avenue  
Plentywood MT 59254  
Phone: (406) 765-1171  
Fax: (406) 765-1227  
Fed. I.D. No.: 81-0134175



**VALLEY WELDERS SUPPLY/SILVER  
TIP PROPANE**

John Braun – (406) 256-3340  
Kevin Adkins – (406) 256-7445  
320 North 11<sup>th</sup> Street  
Billings MT 59101  
Phone: (406) 256-3330  
Fax: (406) 256-3343

**HERITAGE PROPANE**

Heritage Propane  
dba Northern Energy  
Wayne Canary  
1305 Highway 282  
Helena MT 59634  
Phone: (406) 449-0296  
Fax: (406) 495-0343  
Fed. I.D. No.: 73-1495293  
Email: Wcreg3@qwest.net

**HOME OIL**

Home Oil/Pelican Oil, Inc.  
Sandi Van Pelt  
PO Box 126  
Forsyth MT 59327  
Phone: (406) 356-7815  
Fax: 406) 356-2182  
Fed. I.D. No.: 81-0378548

**LEWISTOWN PROPANE**

Lewistown Propane LP Gas  
& Fertilizer  
Gene Meier  
PO Box 88  
Lewistown MT 59457  
Phone: (406) 538-8791  
Fax: (406) 538-5171  
Fed. I.D. No.: 81-0240394

**MILLER OIL**

Miller Oil Company  
Vicki Miller  
PO Box 408  
Culbertson MT 59218  
Phone: (406) 787-6271  
Fax: (406) 787-6357  
Fed. I.D. No.: 81-0395004

**PIONEER GARAGE**

Pioneer Garage, Inc.  
George Hageman  
PO Box 26  
Jordan MT 59337  
Phone: (406) 557-2263  
Fax: (406) 557-2397  
Fed. I.D. No.: 81-0309678

**WOODHALL DISTR.**

Woodhall Distributing  
Wyatt Woodhall  
PO Box 9  
Stanford MT 59479  
Phone: (406) 566-2671  
Fax: (406) 566-2203  
Fed. I.D. No.: 91-1878045